

§ 15.61

could reasonably be expected to cause substantial competitive harm;

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with paragraph (c) of this section at the time of the submission of the information or a reasonable time thereafter, unless the Department has substantial reason to believe that the disclosure of the information would cause competitive harm; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous. In such circumstances, the Department shall forward to the submitter, 10 Federal working days before a specified disclosure date, written notice of any final administrative decision to disclose business information.

(i) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the Department shall promptly notify the submitter.

(j) *Determination of confidentiality.* HUD will make no determination as to the validity of any request for confidentiality until a request for disclosure of the information is received.

(k) *Current mailing address for the submitter.* Each submitter shall provide to the Department:

(1) A mailing address for receipt of any notices under this section; and

(2) Notice of any change of address.

(l) *Treatment of confidential information by HUD employees.* (1) HUD officers and employees shall not, directly or indirectly, use or allow the use of business information obtained through or in connection with Government employment that has not been made available to the general public.

(2) Except as otherwise provided in this section, HUD officers and employees may not disclose business information, except to other HUD officers or employees who are properly entitled to such information for the performance of their official duties.

[60 FR 11904, Mar. 3, 1995]

24 CFR Subtitle A (4-1-00 Edition)

Subpart G—Administrative Review of Denial of Requests for Records

§ 15.61 Administrative appeal.

(a) Appeal shall be available only from a written denial of a request issued under § 15.52, and only when the appeal is filed within 30 days of issuance of the denial. An appeal from a denial issued by the Office of Executive Secretariat or by offices in which there is a Field Assistant General Counsel must be mailed to the Assistant General Counsel for Training and Administrative Law, Room 10246, 451 Seventh Street, SW, Washington, DC, 20410. An appeal from a denial issued by a Field Office must be mailed to the appropriate Field Assistant General Counsel. An appeal must include a copy of the original request for records; a copy of the written denial of access to those records, and a statement of the reasons, circumstances, or arguments advanced in support of, or in opposition to, disclosure of the records. The envelope containing the appeal should be clearly marked as a Freedom of Information Act appeal, so that the Department can comply with the time limitations set forth in § 15.42.

(b) When an appeal is misdirected by the requester, the Office receiving the appeal shall:

(1) Promptly refer it to the:

(i) Assistant General Counsel for Training and Administrative Law, if the denial was issued by the Office of Executive Secretariat or by an office in which there is a Field Assistant General Counsel, or

(ii) Appropriate Field Assistant General Counsel, if the denial was issued by a Field Office; and

(2) Advise the appellant that the time of receipt for processing purposes will be the time the appeal is received by the appropriate office.

(c) The appeal determination shall be in writing; constitute final administrative action by the Department; and, if the denial is upheld in full or in part, include notification of the right to judicial review.

[60 FR 11905, Mar. 3, 1995]